

STATE OF INDIANA  
BEFORE THE ALCOHOL & TOBACCO COMMISSION

IN THE MATTER OF	)	
THE PERMIT OF:	)	
	)	
GULLEY ENTERPRISES, INC.	)	PERMIT NO. RR27-19760
d/b/a MR. G'S	)	
3719 S. LINCOLN BLVD.	)	
MARION, INDIANA 46953	)	

**ORDER REMANDING CASE TO LOCAL BOARD  
FOR REHEARING AND FURTHER INVESTIGATION**

I. Background of the Case

The Permittee, Gulley Enterprises, Inc., d/b/a Mr. G's, 3719 S. Lincoln Blvd., Marion, Indiana 46953 ("Permittee"), submitted its application for transfer of ownership of a type 111 permit on or about May 28, 2004. The Grant County Local Alcoholic Beverage Board ("Local Board") was scheduled to conduct a hearing on this matter on August 3, 2004. The hearing was continued to September 7, 2004, because Permittee had failed to post the Alcohol and Tobacco Commission Public Notice of Application For Alcoholic Beverage Permit ("Notice") as required by law. The hearing was subsequently conducted on September 7, 2004, and further testimony taken on October 5, 2004. On October 5, 2004, the Local Board voted 3-1 to recommend approval of the transfer of ownership.

The Alcohol and Tobacco Commission ("Commission") upheld the recommendation of the Local Board on October 19, 2004, pending final inspection. The Remonstrator, Jennifer Aldridge ("Aldridge"), timely appealed the Commission's decision. The appeal hearing was conducted before Hearing Judge U-Jung Choe on July 27, 2005. Permittee did not appear before the Commission nor gave any explanation for

his absence prior to the appeal hearing. Aldridge appeared in person and gave testimony before the Commission. The matter was taken under advisement.

## II. Findings and Conclusions Pertinent to Remand

From the review of the entire Commission file and from the appeal hearing, certain facts pertinent to the approval of the transfer were discovered as follows:

1. Aldridge presented testimony and exhibits concerning Permittee's failure to post Notice to indicate to the public that the Permittee is seeking a transfer.
2. Aldridge presented testimony and exhibits concerning Permittee's failure to include an accurate date of the Local Board hearing on the Notice to indicate to the public that the Permittee is seeking a transfer.
3. Aldridge presented testimony and exhibits concerning Permittee's failure to post Notice at least ten (10) days prior to the scheduled Local Board hearing date.
4. Indiana law mandates that each applicant/permittee, who is seeking to transfer location or ownership of a Commission retailer or dealer permit, post Notice to notify the public that the applicant/permittee is seeking said issuance. IC 7.1-3-1-28; 905 IAC 1-52-2
5. The Notice must be posted at least ten (10) days prior to the Permittee's scheduled Local Board hearing date. 905 IAC 1-52-2(b). The Notice must be posted in a manner that it is visible from the nearest and largest public thoroughfare in the vicinity of the applicant's premises or proposed premises. 905 IAC 1-52-2(a).

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the application of the Permittee, Gulley Enterprises, Ind., d/b/a Mr. G's, 3719 S. Lincoln

Blvd., Marion, Indiana 46953, No. RR27-19760, is hereby remanded to the Local Board for rehearing and upon completion of its investigation and rehearing on this case, the Local Board is to make its recommendation to the Commission whether to approve or deny the application.

Dated: \_\_\_\_\_

\_\_\_\_\_  
U-JUNG CHOE  
Executive Secretary/Hearing Judge  
Alcohol & Tobacco Commission